

JOHN O'CONNOR
O'Connor & Associates
One Embarcadero Center, Suite 1020
San Francisco, CA 94111
Telephone: 415-693-9960
Facsimile: 415-981-0222

BRUCE A. SINGAL
DAMIEN C. POWELL
Donoghue, Barrett & Singal, P.C.
One Beacon Street
Boston, MA 02108
Telephone: (617) 720-5090
Facsimile: (617) 720-5092

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

U.S. SMALL BUSINESS
ADMINISTRATION, as Receiver for
PROSPERO VENTURES, L.P,

Plaintiff,

v.

DONALD K. EMERY,

Defendant.

CASE NO. 07-03741 VRW

Related Cases:
C07-03739-VRW; C07-03737-VRW;
C07-03732-VRW; C07-03736-VRW;
C07-03738-VRW

**[PROPOSED] ORDER ON PLAINTIFF'S
MOTION TO STRIKE, OR,
ALTERNATIVELY MOTION FOR
JUDGMENT ON PLEADINGS**

[Filed concurrently with Opposition to Motion,
and Memorandum of Points]

Date of Hearing: May 8, 2008
Time: 2:30 p.m.
Ctrm: 6, 17th Floor

The matter came before the Court on May 8, 2008, upon the Plaintiff's Motion to Strike
Affirmative Defenses, or, Alternatively for Judgment on the Pleadings.

1 After considering the moving papers of the parties and hearing arguments regarding the
2 same, IT IS HEREBY ORDERED THAT the Plaintiff's Motion to Strike Affirmative Defenses,
3 or, Alternatively Motion for Judgment on the Pleadings is DENIED.
4

5
6 Dated: _____
7

8
9 _____
10 UNITED STATES DISTRICT JUDGE
11 HON. VAUGHN R. WALKER
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, Damien C. Powell, admitted *pro hac vice* in the United States District Court, Northern District of California, declare:

I am a citizen of the United States of America and a resident of the Commonwealth of Massachusetts. I am over the age of eighteen (18) years. My business address is Donoghue, Barrett & Singal, P.C., 1 Beacon Street, Boston MA 02108. The business address of John O'Connor, Esq., the local counsel to the defendant, is One Embarcadero Center, Suite 1020, San Francisco, California 94111.

On April 22, 2008, I served the foregoing document(s) described as **[PROPOSED] ORDER ON PLAINTIFF'S MOTION TO STRIKE, OR, ALTERNATIVELY MOTION FOR JUDGMENT ON PLEADINGS** on the interested parties, at the addresses as stated below.

Via First Class Mail:

Arlene P. Messinger
US Small Business Administration
409 3rd Street, SW, 7th Floor
Washington, DC 20416
202-205-6857

Via Electronic Mail:

Christine Jean Levin
Coleman & Horowitt, LLP
499 W. Shaw Avenue
Suite 116
Fresno, CA 93704
559-248-4820
Email: clevin@ch-law.com

Darryl J. Horowitt
Coleman & Horowitt, LLP
Attorneys at Law
499 West Shaw Avenue
Suite 116
Fresno, CA 93704
559-248-4820
Fax: 559-248-4830
Email: dhorowitt@ch-law.com

Via Federal Express Overnight:

Hon. Vaughn R. Walker
U.S. District Court, Northern District
450 Golden Gate Avenue
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on
April 22, 2008, in Boston, Massachusetts.

Damien C. Powell